

Finally, concerning attribution of broadcast ownership interests, I am interested in the impact of the proposal to include debt and equity held by a program supplier. In particular, I question whether certain debt or equity issues, even with the limitation to those held by program suppliers, would not be conducive to establishing "control". I also am concerned that our definitions in this area must be sufficiently precise in order to avoid causing disruptions in institutional investment, or other productive ventures.

**SEPARATE STATEMENT
of
COMMISSIONER SUSAN NESS**

Re: Review of the Commission's Regulations Governing Television Broadcasting; ("Local Ownership"), Second Further Notice of Proposed Rulemaking; Broadcast Television National Ownership Rules and Review of the Commission's Regulations Governing Television Broadcasting ("National Ownership"), Notice of Proposed Rulemaking; Review of the Commission's Regulations Governing Attribution of Broadcast Interests; Review of the Commission's Regulations and Policies Affecting Investment in the Broadcast Industry; Reexamination of the Commission's Cross-Interest Policy ("Attribution"), Further Notice of Proposed Rulemaking; et al.

Today we advance towards our goal of issuing clear, simplified, and fair rules regarding broadcast media ownership.

The Telecommunications Act of 1996 expanded radio and television ownership opportunities nationwide and significantly liberalized local radio ownership rules. We had initiated these proceedings before Congress took action last winter because we recognized that the media markets are changing. In view of the changes mandated by Congress and to elicit comment on more specific proposals than those previously described, we now ask the public for further comment.

I am pleased to support these items for three reasons:

First, I prefer to change FCC policies or set standards by rulemaking rather than through ad hoc decisions. We shouldn't delay making decisions on license transfers and other transactions that come before us, but those individual cases do not give the kind of guidance that rulemakings do. A rule is clear, is predictable, and is fair to all. When we complete a rulemaking, everyone knows what the rules of the game will be. Through rulemaking, we have the benefit of hearing from all who are interested, including experts and others who may point out unintended consequences of our proposals. And best of all, transactions can then be expedited.

Second, I prefer to expand market opportunities by raising ownership limits as Congress has done, not through unattributable interests and other "all-but-ownership" activities. In our attribution proposals, we are striking a balance between the goal of precisely defining

"ownership" and the equally significant goal of not impeding capital flow. The proposals we put out for comment today are intended to be narrowly tailored to close loopholes, even as we liberalize direct ownership limits.

Third, the three items include several specific concepts that further our goal of making FCC rules realistic, such as the "Grade A/DMA" duopoly proposal and the "debt and equity plus" attribution proposal. We are also asking for comments on how we might improve the "five factors" we weigh in evaluating certain one-to-a-market waiver applications. These proposals, I believe, should help refine and expedite a more market-based review process.

The challenge of making decisions that are in the "public interest, convenience, and necessity" has never been more difficult in the broadcasting area than it is today. I join Commissioner Chong in saying, "we should adopt new rules precisely calibrated to achieve our goals of encouraging competition and diversity in broadcasting without unduly restraining broadcast commerce." I hope that the comments we receive provide us with the strong factual basis we need to achieve these goals.

STATEMENT OF
COMMISSIONER RACHELLE B. CHONG

Re: *Review of the Commission's Regulations Governing Television Broadcasting; ("Local Ownership"), Second Further Notice of Proposed Rulemaking, MM Docket No. 91-221; Broadcast Television National Ownership Rules and Review of the Commission's Regulations Governing Television Broadcasting ("National Ownership"), Notice of Proposed Rulemaking, MM Docket No. 96-222; Review of the Commission's Regulations Governing Attribution of Broadcast Interests; Review of the Commission's Regulations and Policies Affecting Investment in the Broadcast Industry; Reexamination of the Commission's Cross-Interest Policy ("Attribution"), Further Notice of Proposed Rulemaking, MM Docket No. 94-150; et al.*

Last year, we undertook a reevaluation of our television ownership and broadcast attribution rules in light of current market conditions. We recognized that the video programming market is becoming more and more competitive with each passing month. Cable channels are proliferating. In addition, there is new competition from Direct Broadcast Satellite services, MMDS providers, on-line services and, soon, Open Video Systems offered by the local telephone companies.

In this increasingly competitive environment, broadcasters, including TV licensees, need greater ownership flexibility so that they can have a fair chance to compete. Congress recognized this fact in the 1996 Telecommunications Act by directing us to eliminate the national ownership cap and reexamine our local television ownership rules. In my view, the 1996 Act evinces Congress' clear intention that we loosen our regulatory grip on the broadcast medium. Congress signalled to us that it is time to adjust our rules to fit the new reality of the video programming marketplace.

In these further NPRMs, we seek to update our record in light of the 1996 Act and other changes in the market. In my mind, our goal here is to fine tune our ownership and attribution rules. We should adopt new rules precisely calibrated to achieve our goals of encouraging competition and diversity in broadcasting without unduly restraining broadcast commerce. I encourage all commenters to examine the proposals set forth in these items and tell us how we can best reach our goal.